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Report of the commission of inquiry on human rights in Eritrea*, **, ***

Summary

The commission of inquiry undertook its investigation in accordance with Human Rights Council resolution 26/24.

Although the commission was unable to visit Eritrea, it obtained first-hand testimony by conducting 550 confidential interviews with witnesses residing in third countries. It also received 160 written submissions.

On the basis of this body of evidence, the commission found that systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of the Government. Some of these violations may constitute crimes against humanity.

In the present report, the commission shows how the initial promises of democracy and rule of law, incarnated in the never-implemented Constitution of 1997, were progressively suppressed and then extinguished by the Government. It details how the Government has created and sustained repressive systems to control, silence and isolate individuals in the country, depriving them of their fundamental freedoms. Information collected on people's activities, their supposed intentions and even conjectured thoughts are used to rule through fear in a country where individuals are routinely arbitrarily arrested and detained, tortured, disappeared or extrajudicially executed. The commission also describes how, on the pretext of defending the integrity of the State and ensuring its self-sufficiency, Eritreans are subject to systems of national service and forced labour that effectively abuse, exploit and enslave them for indefinite periods of time.

* The annexes to the present report are circulated as received, in the language of submission only.
** For detailed findings of the commission of inquiry, see document A/HRC/29/CRP.1.
*** Late submission

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I. Introduction

1. In its resolution 26/24, the Human Rights Council established the commission of inquiry on human rights in Eritrea for a period of one year with the mandate to investigate all alleged violations of human rights in Eritrea, as outlined by the Special Rapporteur on the situation of human rights in Eritrea in her reports (A/HRC/23/53 and A/HRC/26/45).

2. On 26 September 2014, the President of the Human Rights Council appointed Mike Smith as chairperson of the commission, and Victor Dankwa and the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, as its members.

3. The present report is submitted pursuant to Council resolution 26/24, in which the Council requested the commission to present a written report to the Council at its twenty-ninth session. In accordance with the decision of the Council, all reports of the commission, including document A/HRC/29/CRP.1, will be transmitted to all relevant bodies of the United Nations and to the Secretary-General for appropriate action.

II. Mandate and methodology

4. In compliance with resolution 26/24, the commission of inquiry investigated the human rights violations described by the Special Rapporteur in her reports, including extrajudicial killings, enforced disappearances and *incommunicado* detention, arbitrary arrest and detention, torture, violations committed during compulsory national service, including those affecting children's rights, and restrictions to the freedoms of expression and opinion, assembly, association, religious belief and movement.

5. The commission paid specific attention to gender-based violations, particularly violence against women, and the impact of violations on particular groups, including women and children.

6. Human Rights Council resolution 26/24 does not limit the temporal scope of the inquiry. As part of the definition of its methods of work, the commission decided to focus the temporal scope of the investigation from the independence of Eritrea until present day.

7. With regard to its geographic scope, the commission conducted its investigation on violations allegedly committed on the territory of Eritrea.

8. While other commissions of inquiry established by the Human Rights Council were specifically requested to investigate human rights violations and related crimes in a specific country or territory, the present commission was mandated only to investigate violations of human rights; it therefore interpreted its mandate as not including the investigation of international crimes. Nevertheless, the commission was not of the view that this prevented it, on the basis of the body of information collected by the end of its investigation, from reaching a conclusion on the possibility that such crimes may have been committed and from recommending further investigations.

A. Non-cooperation by Eritrea

9. In Human Rights Council resolution 26/25, the Council called upon the Government of Eritrea to cooperate fully with the commission, to permit unrestricted access to visit and to provide the information necessary for the fulfilment of the mandate.

10. The Government did not respond to the commission's repeated calls for access and for information related to the human rights situation. During the commission's oral update to the Council at its twenty-eighth session, the Government stated that "country-specific

resolutions and mandates are in breach of the United Nations principles of impartiality, objectivity and non-selectivity" and rejected the oral report.

11. The commission shared its detailed findings with the Government of Eritrea (see annex I).

B. Methods of work

12. Without access to Eritrea, the commission obtained first-hand testimony by conducting confidential interviews with witnesses residing in third countries.

13. Within the limits of time, budget and programme of work, the commission selected countries to visit on the basis of acceptance received, size of the Eritrean population hosted, and their average dates of departure from Eritrea (the latter to ensure that the entire period under investigation was covered). The commission conducted visits to Djibouti, Ethiopia, Germany, Italy, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

14. The commission and its secretariat conducted confidential interviews with more than 550 witnesses, 100 of whom were women. In accordance with best practices, it paid special attention to gender issues and the gendered impact of violations. Nevertheless, it faced significant difficulties in the investigation and documentation of human rights violations suffered by women. The commission therefore takes the view that its inquiry may have only partially captured the extent of sexual violence and violence against women.

15. In November 2014, the commission made a call for written submissions to relevant individuals, groups and organizations. By the deadline, 160 submissions had been received.

16. The commission engaged with a number of United Nations entities and other humanitarian actors. It regrets that a number of these entities and actors felt they were not in a position to provide relevant information. The commission expresses its gratitude to the Office of the United Nations High Commissioner for Human Rights (OHCHR) for its support. The commission also benefited from the invaluable support of a number of non-governmental organizations.

17. Aside from its inability to enter Eritrea, the most significant investigative challenge the commission faced was fear of reprisal among witnesses. Many potential witnesses residing outside Eritrea were afraid to testify, even on a confidential basis, because they assumed they were still being clandestinely monitored by the authorities and therefore feared for their safety and for family members back in Eritrea.

18. As a consequence, the commission paid particular attention to the protection of witnesses. It recalls that primary responsibility for protecting all persons cooperating with the commission rests with their States of residence and nationality. The commission therefore urges Member States to provide additional protection measures where necessary.

19. Another challenge faced by the commission in the completion of its work was the absence of reliable data, including statistical information, in such areas as demographics, development, the economy and the legal system. Whenever evidence-based conclusions could not be drawn from available data, the commission indicated it.

C. Legal framework and standard of proof for reported violations

20. The commission assessed the human rights situation on the basis of the international legal obligations voluntarily subscribed to by Eritrea. Eritrea is a State party to the following universal and regional human rights treaties (year of ratification is given in parentheses):

- Convention on the Rights of the Child (1994) and the Optional Protocols thereto on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography (2005)
- Convention on the Elimination of All Forms of Discrimination against Women (1995)
- African Charter on Human and Peoples' Rights (1999)
- African Charter on the Rights and Welfare of the Child (2000)
- International Convention on the Elimination of Racial Discrimination (2001)
- International Covenant on Economic, Social and Cultural Rights (2001)
- International Covenant on Civil and Political Rights (2002)
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2014)

21. The commission based its findings on a "reasonable grounds to believe" standard of proof. This standard is met when in assessing all the information gathered – including open sources – it can be concluded that it is reasonable to believe that the incident or event occurred as reported.

D. Archiving and record-keeping of testimony

22. In accordance with established United Nations procedures, all information collected by the commission is stored in the official United Nations archive system and all interviews are classified as strictly confidential. Information will not be shared with any State, entity or individual without the explicit and informed consent of each witness concerned. This includes sharing with other sections of OHCHR, United Nations human rights mechanisms, any international judicial mechanisms, any judicial mechanisms of other States, and any government authorities, in particular the Government of Eritrea.

III. Principal findings of the commission

23. The commission finds that systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of the Government. Patterns of systematic human rights violations have been identified, taking into account several factors. They include the high frequency of occurrence of the human rights violations documented and corroborated during the investigation, the number of victims and the replication of the violation during a certain period of time; the type of rights violated; and the systemic nature of these violations, meaning that they cannot be the result of random or isolated acts of the authorities. The main perpetrators of these violations are the Eritrean Defence Forces, in particular the Eritrean Army; the National Security Office; the Eritrean Police Forces; the Ministry of Information; the Ministry of Justice; the Ministry of Defence; the People's Front for Democracy and Justice (PFDJ); the Office of the President; and the President.

24. The struggle for the independence of Eritrea is recorded in history as a major feat of a people's fight for self-determination. The commission finds that the current situation of human rights in Eritrea is the tragic product of an initial desire to protect and ensure the survival of the young State that very quickly degenerated into the use of totalitarian practices aimed at perpetuating the power of the Eritrean People's Liberation Front and its successor, the People's Front for Democracy and Justice.

25. In the present report, the commission shows how the initial promises of democracy and rule of law, incarnated in the never-implemented Constitution of 1997, were progressively suppressed then extinguished by the Government on the pretext of threats to its existence. It details how the Government has created and sustained repressive systems to control, silence and isolate individuals in the country, depriving them of their fundamental freedoms. It shows how information collected on people's activities, their supposed intentions and even conjectured thoughts is used to rule through fear in a country where individuals are routinely arbitrarily arrested and detained, tortured, disappeared or extra-judicially executed. The commission also describes how, under the pretext of defending the integrity of the State and ensuring its self-sufficiency, Eritreans are subject to systems of national service and forced labour that effectively abuse, exploit and enslave them for indefinite periods of time.

26. Faced with a seemingly hopeless situation they feel powerless to change, hundreds of thousands of Eritreans are fleeing their country. In desperation, they resort to deadly escape routes through deserts and neighbouring war-torn countries and across dangerous seas in search of safety. They risk capture, torture and death at the hands of ruthless human traffickers. To ascribe their decision to leave solely to economic reasons is to ignore the dire situation of human rights in Eritrea and the very real suffering of its people. Eritreans are fleeing severe human rights violations in their country and are in need of international protection.

A. Controlled, silenced and isolated

1. Surveillance of the population in violation of the right to privacy

27. Through its extensive spying and surveillance system targeting individuals within the country and in the diaspora, the Government engages in the systematic violation of the right to privacy. It employs all means, including harassment, intimidation and the abusive use of a coupon system originally created to allow access to subsidized goods in government shops, to collect information about Eritreans. Pervasive spying and surveillance in Eritrea go beyond the needs of national security or crime prevention and are arbitrary.

28. As a result of this mass surveillance, Eritreans live in constant fear that their conduct is or may be monitored by security agents, and that information gathered may be used against them leading to arbitrary arrest, detention, torture, disappearance or death. They therefore engage in self-censorship with regard to most aspects of their lives. They do so because it is impossible for an individual to know what activities may be considered "deviant" and sanctionable at a specific moment in time and what the consequences for such activities might then be. The existence of such a pervasive control system generates a general climate of fear and mistrust in communities and even within families. In the words of one witness, "When I am in Eritrea, I feel that I cannot even think because I am afraid that people can read my thoughts and I am scared." The end result is a severe curtailment of the exercise of all other rights and freedoms.

2. Freedom of movement

29. The Government strives to control strictly any human movement both internally and for those who wish to leave the country, in particular to ensure that individuals fulfil their national service obligations. To do so, it has established an intricate system of travel permits and identity cards, which must be produced during identity checks to verify an individual's status with regard to compulsory national service and that person's authorization to travel. The Government controls who may leave Eritrea legally through the

arbitrary issuance of an exit visa. To prevent those who wish to avoid national service from leaving the country unlawfully, the Government also restricts movements towards border areas and severely punishes anyone found trying to cross the frontier. With a few exceptions, those who have been forced to return to the country have been arrested, detained and subjected to ill-treatment and torture. Eritreans voluntarily returning to their country may face arbitrary arrest, in particular if they are perceived as having associated with opposition movements abroad. Eritreans abroad can obtain a passport only upon payment of a mandatory "rehabilitation tax" amounting to 2 per cent of their earnings, a disproportionate price for a travel document. Those who left unlawfully also have to sign a regret form.

30. The restrictions on movement are not proportionate and strictly necessary in the interests of national defence. They constitute a violation of the right to freedom of movement, including the right to leave and freely return to one's country. All persons suspected of intending to cross the border unlawfully are treated in a manner that often amounts to torture or cruel, inhumane or degrading punishment, outside of any judicial proceedings.

3. Freedom of opinion and expression

31. In its determination to safeguard its own continued existence, the Government has proceeded to establish a system by which individuals in society are silenced and isolated through the organized repression of the freedoms of opinion, expression, assembly, association and religion. The commission recalls that merely invoking general grounds such as national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others cannot be regarded as legitimate to justify the restriction of public freedoms.

32. In the area of freedom of expression, the Government systematically silences anyone who is perceived as protesting against, questioning or expressing criticism of the Government and its policies, even when such statements are genuine and legitimate in the context of a democratic public debate. The most visible sign of such repression was the purge in 2001 of the G-15 reform group and of its supposed supporters, who were in their majority either killed or disappeared. Following that crackdown, the silencing of the population went a step further as Eritreans started being punished for just about any expression of opinion: claiming the enjoyment of fundamental rights and legitimate benefits; enquiring about the fate of persons perceived as critics by the Government; discussing governmental policies; or asking any type of question. The Government consistently labels perceived critics as traitors. Those found guilty of such a "crime" are severely punished.

33. Freedom of the press is another casualty of the Government's effort to control society. In 2001, the Government suppressed the emerging free press by closing down independent newspapers and silencing journalists through detention and torture, several of whom disappeared. Since then, only pro-Government information is easily accessible in the country. The Government, principally through its Ministry of Information, holds tight control over the content of information, the journalists who produce it, the matters they may cover and what they may say about them. It severely punishes any perceived divergence from the official line. The restrictions imposed on the press, the exercise of journalism as a profession and the access to information and means of communication are neither proportionate nor necessary for the interests of national security, public order or even national unity, and constitute a violation of the right to seek, receive and impart information that is included in the right to freedom of expression.

34. The freedom of assembly and association is also targeted. The few attempts to exercise the right to peacefully demonstrate have been crushed by the Government, which

arrested, detained and sometimes executed demonstrators extrajudicially. Moreover, since the prohibition of political parties and independent trade unions, short of joining the ruling party, individuals have no avenue for participating in the conduct of public affairs, nor any means to protect or improve their working conditions. The restrictions imposed by law on the establishment of and the activities that may be undertaken by national or international non-governmental organizations are so limiting that it is impossible for them to operate in the country, leaving only government-organized associations able to operate. The commission's findings on the exercise of the right to freedom of assembly and association point to a lack of mechanisms for channelling grievances, the absence of representation of interest groups in the administration of the country, lack of consultation on decisions affecting the population, absence of opportunities for open and genuine dialogue, and the punishment of peaceful assembly and expression of demands.

4. Freedom of religion and belief

35. The Government perceives religion as a threat to its existence and has set about controlling it and its expressions. Only four religious denominations are authorized in Eritrea: Eritrean Orthodox, Catholicism, the Lutheran church and Sunni Islam. In spite of the legal processes established in 2002 to apply for recognition, to date no other denominations have been formally allowed to exist. All religious communities and their members are nevertheless to varying degrees targeted by restrictions and attacks by the Government. Interference in religious structures and affairs is rampant. The religious gatherings of non-authorized denominations are prohibited. Religious materials are confiscated. Adherents are arbitrarily arrested, ill-treated or subjected to torture during their detention, and prisoners are coerced to recant their faith. Many religious followers have been killed or have disappeared.

36. In the implementation of discriminatory treatment on the basis of belief, Jehovah's Witnesses have been arbitrarily deprived of their citizenship. Apart from making it impossible for them to participate in public affairs, the loss of citizenship entails curtailment of the enjoyment of other fundamental rights, including the right to work when their business licences are arbitrarily revoked, and the right to be recognized as a person before the law when their national identity documents are confiscated.

37. The limitations imposed on the activities of churches and religious institutions by law and through unwritten policies and indirectly restricting the right to manifest one's religion or belief are not compatible with international human rights law. The restrictions have affected the right of adherents to practice and manifest their religion, to conduct legitimate religious activities such as preaching, and the functioning of religious institutions in a manner that is not proportionate and necessary for the protection of public safety or order. Moreover, the commission considers that the rights of adherents to liberty and fair trial and not to be tortured or subjected to degrading treatment or punishment are regularly violated.

B. Rule by fear

1. Administration of justice

38. The non-implementation of the Constitution of 1997, including the provisions relating to individual rights, has had a profound impact on the rule of law in Eritrea. Indeed, with no parliament meeting and the court system controlled by the executive, it could even be affirmed that there is no rule of law in Eritrea. Information gathered through the pervasive control system is used in absolute arbitrariness to keep the population in a state of permanent anxiety. It is not law that rules Eritreans, but fear.

39. Violations of the right to fair trial and due process of law are particularly blatant. Criminal proceedings disregard the most basic, universally recognized principles in the administration of justice. It seems that investigators, security officers and military leaders also act as de facto magistrates; however, given that their decisions are not public ,there is scarce information about them. Therefore, the extent of the violations committed can only be partially assessed. Most decisions are rendered on the sole basis of investigation reports that often include statements obtained under torture. Judgements are rarely made public or even communicated to accused persons, who are not always aware they have been tried and have no knowledge of how long they will be imprisoned. This makes it impossible for persons sentenced to have their sentences reviewed by a higher court.

40. The commission concludes that the judicial system, both civil and military, is not independent and the Government frequently interferes in the administration of justice. The judiciary is not in a position to protect the fundamental rights of Eritrean citizens, in particular when they are violated by public officials. Some judges are conscripts whose "careers" depend on the Ministry of Defence at a salary of less than $2 a day, a clear violation of the principle of judicial independence and of their security of tenure. Similarly, the lack of independence of the judiciary and prosecution contributes to the widespread impunity enjoyed by public officials in Eritrea, including in cases of gross abuse of human rights.

2. Arbitrary arrest

41. The use of information collected by the Government through spying networks leads in the first place to arbitrary arrest and detention. The great majority of those who provided their testimony had been arrested, many a number of times. Arrests are often unjust, unpredictable, unreasonable and disproportionate. In most cases, people are arrested and detained for reasons that are arbitrary to such an extent that no one can possibly identify the law that might have been broken. Since formal charges are not laid, individuals are left to guess the reason for their arrest and detention, based on the line of interrogation or their conduct before arrest. The main reasons for arrest that the commission was able to reconstruct related to asking questions; suspected collaboration with the enemy, including working for foreign entities in Eritrea; presumed or actual attempt to flee the country or desert national service; and for the conduct of a family member. Specific categories of people have also been targeted, particularly political opponents, journalists and members of religious groups.

42. Arrests and detention are ordered and conducted by any person with de facto authority, including local administrators, in breach of requirements that officials authorized to make arrests should be clearly identified. Most people are arrested by armed military or national security officers, in either uniform or civilian clothes. The arresting officers sometimes present their identity cards but rarely inform persons under arrest of the place where they will take them. In most cases, individuals arrested at home or on the streets are deceived by arresting officers, who tell them that they are only needed at the police station for a short time and will then be able to return home. People often ultimately find themselves in an unofficial place of detention. The principle of habeas corpus is rarely respected. As a result, the lawfulness of the deprivation of liberty is not reviewed and detainees are released at the whim of the arresting or detaining officer. Detention in Eritrea cannot possibly be referred to as pretrial, given that individuals are rarely tried. The Government systematically uses arbitrary arrests and detention in violation of the right to liberty of the person.

3. Enforced disappearance

43. Since 1991, scores of people have been subjected to enforced disappearance, for known and unknown reasons. Information is hardly ever officially provided on the whereabouts of and charges against those detained. Detainees are usually not brought before a court, and are thus placed outside the protection of the law. When relatives enquire after detainees, they are informed by prison authorities that they have no information on the person arrested and warn them to cease their enquires or risk facing a similar fate. In certain cases, relatives may subsequently receive unofficial information from inmates who have been released or from bribed guards; in most cases, however, they are still prevented from visiting their detained relatives. The commission finds that most of the countless people arrested in Eritrea are indeed victims of enforced disappearance, which is a widespread and systematically employed practice.

44. While the exact number of people subjected to enforced disappearance remains unknown, the commission finds that specific targets of the Government include political dissidents, in particular former freedom fighters belonging to the Eritrean Liberation Front, journalists, religious leaders and adherents (in particular Muslim scholars and businessmen), and leaders and members of the Afar ethnic group. The commission considers that all those who have been victims of enforced disappearance suffered a violation of their right to life, their right not to be subjected to torture, cruel, inhuman or degrading treatment, their right to be treated with humanity and with respect for dignity in the context of detention, their right to be recognized as a person before the law, and their right to liberty. In addition, in the light of the anxiety and suffering that enforced disappearances cause families for extended periods, the commission finds that the right of family members not to be subject to torture, cruel, inhuman or degrading treatment is also violated.

4. Arbitrary deprivation of life

45. Since independence, extrajudicial executions and arbitrary killings have been widely perpetrated. Before 1998, punishment in the form of summary executions or extrajudicial killings was meted out against war veterans with disabilities and political opponents, and particularly targeted Muslims scholars. Eritrean soldiers accused of cowardice or desertion during the 1998-2000 war with Ethiopia were systematically executed. This also includes Eritreans and Ethiopians suspected of being "collaborators of the enemy" after the war, in particular Kunamas accused of having supported the Government of Ethiopia. Thereafter, extrajudicial executions have been carried out by the Eritrean authorities, publicly or secretly, to punish perceived critics, as well as suspected smugglers and ordinary citizens for arbitrary reasons. Mass killings have also been perpetrated against ethnic groups.

46. Eritreans who attempt to leave the country are seen as traitors. For a considerable period of time, the Government has implemented a shoot-to-kill policy in border areas to prevent people from fleeing. The policy has largely been implemented by the military, particularly the border surveillance division. Numerous testimonies indicated that the policy, which was publicly announced in 2004, might have been revised in later years. Nevertheless, since people were still being shot at while trying to cross the border as late as 2014, the commission is not in a position to conclude that the policy has been officially abolished. The commission recalls that the right to leave one's country is a fundamental freedom recognized under international human rights law. The use of lethal force to prevent individuals from leaving Eritrea, even if illegally, is a violation of the right to life.

47. Some of the killings and executions reported might have resulted from personal initiatives or excessive use of force by officials. By not investigating, prosecuting and punishing the authors of such killings, the Government breaches its due diligence obligation; as a result, these killings are imputable to it. The commission is concerned that

the general climate of impunity thus created is conducive to the continued practice of arbitrary and extrajudicial killings in Eritrea.

5. Detention

48. The detention of persons, which begins arbitrarily at the time of arrest and continues unlawfully for long periods of time, is not subject to judicial review. The detention network in Eritrea is vast (see annex II), with many secret and unofficial facilities. Detainees are kept in a variety of facilities, including makeshift and open air camps, converted old buildings, metal containers (some of which buried underground), and in caves and holes. The practice of incommunicado detention is widespread. Persons detained on religious or political grounds are systematically kept incommunicado for periods that can last several years.

49. Conditions of detention are extremely harsh. When not held in solitary confinement or being used for labour (both common practices), inmates are locked night and day in extremely overcrowded cells characterized by unspeakable hygienic conditions. Proper toilets are not available in cells, and detainees are sometimes forced to sleep in human waste overflowing from the insufficient containers provided for this purpose. Access to fresh air and natural light is limited to bare minimum, often on purpose. Food rations are minimal and of poor nutritional quality, leading to hunger and starvation. Drinking water is frequently unclean and limited in quantity, despite the high temperatures experienced in many detention locations. In addition, the absence of health facilities and the lack or deliberate denial of medical care and medicines, coupled with the arbitrary imposition of punishment, exposes detainees to illnesses, epidemics and death. The harsh conditions of detention push some detainees to suicide.

50. The harshest conditions and the strictest regimes of detention are deliberately employed in a number of situations, including to punish those suspected of being a threat to national security, traitors or suspects of "cross-border crimes," or during the investigative phase of detention, with the intent to obtain self-incrimination, to extract a confession or information or to force religious believers to recant their faith. Conditions of detention are often particularly inhumane at the beginning of the period of detention and improve slightly but incrementally up until release.

51. An unknown number of foreign combatants are detained in Eritrea, including at least five Djiboutian soldiers, on whom no information has been received since 2011.

52. Women are generally kept separated from men, but are rarely under the responsibility or attention of women officers. The lack of female officers responsible for and attending to female detainees puts them at increased risk of sexual and gender-based violence, and causes them unnecessary humiliation. The commission documented instances where children were detained together with adults in the same inhumane conditions and without attention to their specific needs. As with others, children are often held incommunicado.

53. With regard to detention, the Government is in violation of the rights to life; to liberty and security; not to be subject to torture, cruel, inhumane or degrading treatment; to be treated with humanity and the inherent dignity of the human person; and to a reasonable standard of health. Incommunicado detention and solitary confinement, during which detainees are also denied contact with other detainees and even prison guards for prolonged periods of time, amounts to torture. Authorities are accountable for the violation of the right to life of detainees who are under their responsibility and who die in custody, including in cases of suicide. The commission finds that, in all these cases, the Government does not abide by its positive obligation to protect the life of persons in custody and its obligation of due diligence to investigate deaths.

6. Torture

54. Eritrean officials use a variety of forms of ill-treatment during interrogations and to punish detainees and conscripts. The common element of these forms of ill-treatment, such as extreme forms of restraint, beatings or rape, is that they are intended to inflict severe physical and psychological pain. The purpose of these acts is to extract confessions and information, and to punish, intimidate and coerce detainees and conscripts. Many of them also cause long-lasting psychological and physical damage to the victims or result in the death of the person. The commission finds that this ill-treatment constitutes torture, which may be described as widespread in Eritrea.

55. Torture is either directly ordered by officials or inflicted with their consent and acquiescence. The recurrence, coherence and similarities of the many torture incidents documented are a clear indication of the existence of a deliberate policy to inflict torture in a routine manner during investigations and interrogations, as well as during national service. Perpetrators of torture enjoy general impunity. The commission concludes that the Government is accountable for the widespread torture inflicted on Eritreans throughout the country.

7. Right to property

56. The State's post-independence land reforms, a significant departure from previous customary law, were implemented to varying degrees across the country. The Government's exclusive ownership of land and of natural resources has been used as a means by authorities to harass and punish perceived enemies, in particular members of unauthorized religions, opponents and relatives of people who fled the country, and to unlawfully reward associates or supporters. Although the land reform laws appear gender-neutral, the commission finds the system to be indirectly discriminatory to women. Women and girls are disproportionally affected by the citizenship requirement linked to completion of national service to have access to land, given that many do not undertake or complete it due to marriage and motherhood. Land reform also has a disproportionate impact on pastoralists, such as the Afar and Kunama minorities. The manner adopted by the authorities to resettle members of these communities may be construed as an intentional act to dispossess them of their ancestral lands, their livelihoods and their culture.

C. Abused, exploited and enslaved

1. National service

57. In 1995, the Government issued a Proclamation on national service complementing previous laws and calling for the conscription of all 18-year-old Eritreans. In 2002, it launched the Warsai Yikealo Development Campaign, requiring boys and girls to commence military training for a period of six months when they reach twelfth grade, if in school, or by the time they are 18 years old. Conscripts who pass the final exam at the Warsai Yikealo secondary school are allowed to continue their education while remaining formally in national service; others are required to serve in either the military or the civil service for at least 12 months. In reality, children are often forcibly recruited and conscripts end up serving for an indefinite period of time. The commission interviewed individuals who were still in the army when they finally decided to flee after 17 years of service.

58. Conditions and treatment during military training and service are harsh. They include lack of adequate food, water, hygienic facilities, accommodation and medical services that may result in death, severe disabilities or psychological and physiological long-term effects. Conscripts are routinely deprived of their rights to freedom of expression, movement and religion. They are systematically subjected to intentional

punishment and ill-treatment aimed at inflicting severe pain. In many cases, this constitutes torture.

59. Sexual violence against women and girls is widespread and indeed notorious in military training camps. Furthermore, the enforced domestic service of women and girls who are also sexually abused in these camps amounts to sexual slavery. The commission considers that these violations of the rights of women and girls also amount to torture. They are also committed to a lesser extent within the military and are a further example of the Government's failure to fulfil its due diligence obligations to protect, prevent, punish and remedy acts of violence against women.

60. Being exempted from national service is very difficult, particularly for men. No form of conscientious objection is allowed, and even persons with disabilities are conscripted for active military training and service instead of civil service. Authorities regularly conduct mass round-ups (*giffas*) to seize draft evaders and deserters in an indiscriminate manner. This often involves excessive use of force, occasionally leading to death, and the forced entrance into and search of private homes. Leaving national service is equally challenging, and often is only possible when the individual deserts and flees the country. Indeed, the indefinite duration of national service, its terrible conditions – including arbitrary detention, torture, sexual torture, forced labour, absence of leave and the ludicrous pay – and the implications it has for the possibility of any individual to found a family, conduct a family life and have favourable conditions of work make national service an institution where slavery-like practices are routine.

61. The conscription of citizens into national service is a prerogative of sovereign States, which can require that individuals contribute to the national defence of the State for a certain period of time. This should not, however, result in the complete denial of the individual's freedoms and rights. National service in Eritrea is based on conditions and measures that are not proportionate, reasonable or necessary in the interest of national defence. National service as implemented by the Eritrean authorities involves the systematic violation of an array of human rights on a scope and scale seldom witnessed elsewhere in the world. In particular, the commission finds that national service violates the rights of Eritreans to life; to liberty and security; not to be tortured or subject to cruel, inhumane or degrading treatment; to be treated with humanity and inherent dignity of the human person while deprived of liberty; to be recognized everywhere as a person before the law; to enjoy freedom of thought, conscience, religion, expression and movement; to privacy and family life; to education; to the highest attainable standard of physical and mental health; not to be subjected to forced labour; and to gain one's life by work freely chosen or accepted. It also violates the right of children not be forcibly enrolled in armed forces.

62. Lastly, the commission considers that the lack of investigation, prosecution and punishment by the Government of those practices or violations that result of individual initiatives constitutes a breach of its obligation of due diligence under international human rights law.

2. Forced labour

63. Thousands of boys and girls are enrolled every year in open-ended national service. The commission finds that, during their service, most conscripts in the military and all conscripts in civil service are subject to forced labour. There is a pattern of torture, inhuman, cruel or degrading treatment or punishment of conscripts in the army in connection with the labour that conscripts are forced to perform. The working and living conditions of conscripts who are subject to forced labour are conducive or amount to additional human rights violations, such as to their right to work in just and favourable conditions, their right to adequate housing and their right to the highest attainable standard

of health and access to health care, in particular when they are required to perform dangerous work.

64. Many Eritreans, including under-age students, are also subject to forced labour outside national service. Elderly Eritreans are subject to forced labour in the context of their forced recruitment in the militia. The commission finds that the labour exacted from persons deprived of liberty by the Government also constitutes a form of forced labour prohibited under international human rights law.

65. Conscripts, students, elderly persons and prisoners are all forced to work under the threat of penalty or punishment. In the repressive context of Eritrea, refusal to perform such work is therefore not a possibility they would consider. The commission concludes that forced labour in this context is a practice similar to slavery in its effects and, as such, is prohibited under international human rights law.

IV. Conclusions and recommendations

A. Conclusions

66. **The commission finds that systematic, widespread and gross human rights violations have been and are being committed by the Government of Eritrea and that there is no accountability for them. The enjoyment of rights and freedoms are severely curtailed in an overall context of a total lack of rule of law. The commission also finds that the violations in the areas of extrajudicial executions, torture (including sexual torture), national service and forced labour may constitute crimes against humanity. The commission emphasizes that its present findings should not be interpreted as a conclusion that international crimes have not been committed in other areas.**

67. **Following up on practices developed during the liberation struggle, the PFDJ, the ruling and only party in Eritrea, has held on to power by progressively dismantling or refraining from implementing reforms aimed at establishing democracy and rule of law in the country. Through the establishment of control systems and the application of harsh repression, the PFDJ has eroded public freedoms and established a rule of fear that tolerates no opposition. It has blurred the lines between the three sources of constitutional authority by concentrating all power in the executive, and in particular in the figure of the President – who is also the head of the party, at the cost of the legislature and the judiciary. National elections have never been held.**

68. **The PFDJ has established a system by which an extraordinary number of individuals have the power to spy on Eritreans and conduct investigations and arrests often without observing the law. The proliferation of national security offices and of officers assigned to administrative offices but with an intelligence mandate – and their overlap with the party's own intelligence and with military intelligence – is a major concern.**

69. **What was meant to be the supreme law of the country, the Constitution of 1997, has never been implemented. The National Assembly stopped convening in 2002. Even while it was sitting, laws were passed by government decree ("Proclamation"); since 2002, it has been the exclusive way to promulgate legislation. It is of particular concern that some important policies adopted by the Government, including those severely affecting individual rights and freedoms, are not embodied in law; they are simply "announced" by government media or in messages passed on by local administrations and implemented in practice, with all the ambiguities of such a procedure. This modus operandi has undermined the legitimate expectations of**

Eritreans on the certainty of laws and on proper legislative processes separated from and under the control of an independent legislature. While the commission welcomes the promulgation of the new codes that, as of May 2015, effectively replace the transitional codes in force since 1991, it is not in the position to assess their compliance with international human rights law.

70. The judiciary is not independent. Judges are appointed, reassigned and dismissed at the will of the President and are directed in their actions and influenced in their decisions by members of the PFDJ and of the army. The judicial system has also been affected by the creation of a parallel structure, the Special Court, which, in practice, presides over and rules on all kinds of crimes, operating with clear disregard for the most basic safeguards related to due process. Its judges are senior military officers without legal training, apparently directly appointed by the President and directly accountable to him. Globally, administration of justice is completely deficient, particularly when it comes to processing cases of persons in detention. Community courts, with jurisdiction over disputes arising from the "daily lives of the communities", have at least facilitated access to some justice for people in rural and remote communities.

71. Eritreans are unable to move at will, to express themselves freely, to practice their religion without undue interference, to enjoy unrestricted access to information or to have the liberty to assemble and associate. Pervasive control systems and heavy consequences for perceived deviant behaviours, including lifetime incarceration or death, have created an environment of self-censorship whereby individuals no longer trust anyone – not even their own family.

72. Continuing practices already recorded during the liberation struggle when dealing with internal and external opposition, the Government has since independence used enforced disappearances and extrajudicial executions to crush real or perceived opposition and prevent the rise of any opposing views. The commission finds particularly abhorrent the Government's practice of acknowledging arrests while providing no further information regarding the fate or whereabouts of those arrested.

73. Arbitrary detention is ubiquitous. The number of officials misusing the power of arrest is particularly worrisome, as is the number of official, unofficial and secret places of detention – all outside the control of the judiciary. Conditions of detention are extremely harsh, and the lack of access to sufficient food, water and medical care while in detention is found to debilitate prisoners and to lead to short- and long-term health complications, and sometimes death. The practice of keeping detainees in incommunicado detention and/or in isolation with total disregard for international standards is widespread. The mental and physical health of prisoners is thus unduly and unnecessarily affected.

74. Persons arrested, detained or held for punishment under various circumstances, including during national service and military training, are routinely subject to forms of ill-treatment that, in many cases, amount to torture. The commission finds that the use of torture is so widespread that it can only conclude that it is a policy of the Government to encourage its use for the punishment of individuals perceived as deviant and for extorting confessions. Monitoring of detention centres is non-existent, and perpetrators of torture are never brought to justice.

75. The commission finds that the practice of punishing family members for the behaviour of a relative constitutes a form of guilt by association that is in violation of international standards. Retaliation of this kind can be financial or take the form of harassment (including abroad), arbitrary arrest and detention. Targets can be

relatives of perceived critics of the Government, conscripts who have deserted, detainees who have escaped or individuals who had fled the country.

76. Controlled access to property, including land, has allowed the Government to use such resources as a further means to punish those in perceived disagreement with it and to reward supporters. The commission finds that military and party representatives in particular have abused their authority to seize land, houses and businesses for their own profit.

77. Since 1994, Eritreans have had to spend most of their working lives in national service. The duration of national service is indefinite, its conditions violate international standards and conscripts are severely underpaid . As such, it is an institution where slavery-like practices take place. Conscripts are at the mercy of their superiors, who exercise control and command over their subordinates without restriction in a way that violates human rights and without ever being held accountable. Conscripts are regularly subjected to punishment amounting to torture and ill-treatment, during both military training and life in the army. Women and girls are at a high risk of rape and other forms of sexual violence in all areas of national service, and particularly in military training camps, where they are often forced into concubinage by superiors in the camp. Eritreans who attempt to avoid conscription or escape from the military are severely punished and arbitrarily deprived of their liberty.

78. The Government has unlawfully and consistently been using conscripts and other members of the population, including members of the militia, many beyond retirement age, as forced labourers to construct infrastructure and to pursue the aim of economic development and self-sufficiency of the State, thus indirectly supporting the continued existence of a totalitarian Government that has been in power for the past 24 years. The use of forced labour is so prevalent in Eritrea that all sectors of the economy rely on it, and all Eritreans are likely to be subject to it at some stage in their lives. The Government also regularly profits from the almost free work exacted from conscripts and detainees to obtain illegitimate financial gain when they are "lent" to foreign companies paying salaries to the Government that are considerably higher than the amounts paid by the Government to the workers.

79. The situation of human rights incites an ever-increasing number of Eritreans to leave their country. Overall, it is estimated that approximately 5,000 people leave Eritrea each month, mainly to neighbouring countries. The trend has been upwards, with a marked spike during the latter months of 2014. In October 2014, the registered refugee population was 109,594 in the Sudan and 106,859 in Ethiopia. The total Eritrean population of concern to the United Nations High Commissioner for Refugees in mid-2014 was 357,406; depending on estimates of the current population, this would constitute between 6 and 10 per cent of the national population. Thousands of Eritreans are killed at sea while attempting to reach European shores. The practice of kidnapping migrating individuals, who are released on ransom after enduring horrible torture or killed, targets Eritreans in particular. Episodes of Eritreans killed inside the country while trying to leave have also been recorded.

80. Discrimination and violence against women are present in all areas of Eritrean society. Women are not only at extreme risk of sexual violence within the military and in military training camps, but also in society at large, where violence against women is perpetrated in an environment of impunity. Discrimination against women intersects with the other human rights violations, placing women in a position of vulnerability. Violations of the right to property, employment and freedom of movement result in women being vulnerable to food insecurity, engaging in transactional sex and prostitution and at heightened risk of punishment for non-

sanctioned work. The lack of genuine rule of law, credible security agencies and independent and impartial women's civil society organizations leaves women and girls unable to seek recourse to justice or remedy for the sexual and gender-based violence and discrimination they endure.

81. The commission finds that the lack of trustworthy data, including statistical data, in almost every domain (inter alia, legal, demographic, development-related and economic) is a serious deficiency that hampers a clear understanding of the situation in Eritrea, allows the circulation of interpretations that are not evidence-based, and results in decisions that can be harmful to the enjoyment of human rights of Eritreans.

82. The commission has not benefited from any form of cooperation from the Government of Eritrea. The limited access to the country by international and regional governmental and non-governmental organizations is of great concern, particularly in the context of a Government that maintains an opaque system and that does not make information publicly available to either its citizens or the international community.

83. The international community and the United Nations bear an ongoing responsibility for the situation in Eritrea. In particular, the non-implementation of the Algiers Agreement of 12 December 2000 and of the ruling on the demarcation of the border between Ethiopia and Eritrea has provided an easy pretext for the Government to implement repressive practices supposedly aimed at the defence of the State. The international community also has a responsibility to keep Eritrea under scrutiny for its policies and practices.

B. Recommendations

84. On the basis of its findings and conclusions, the commission makes the recommendations below.

1. General

85. The commission of inquiry recommends that the Government of Eritrea:

(a) Implement fully and without further delay the Constitution of 1997; any amendments to the Constitution should be made in a transparent and participatory manner and take into account the State's obligations under international human rights law;

(b) Respect obligations under international human rights treaties to which Eritrea is a party; ratify and implement other international human rights instruments; and respect fully the freedoms of expression and opinion and of peaceful assembly and association as critical foundations for any democracy;

(c) Acknowledge the existence of human rights violations and ensure accountability for past human rights violations, including but not limited to extrajudicial killings, enforced disappearances, torture, unlawful detention, sexual violence and forced labour, including within national service;

(d) Establish an independent and impartial mechanism to investigate and, where appropriate, to bring perpetrators to justice, in particular those with command responsibility, and to provide victims with adequate redress; and ensure that procedures are in place to hold all perpetrators of ongoing and future human rights violations fully accountable.

2. Governance and administration of justice

86. **The commission also recommends that the Government of Eritrea:**

(a) Ensure the separation of powers between the legislature, the executive and the judiciary;

(b) Allow the creation of political parties and hold free, fair and transparent democratic elections at all levels, and in this context, respect and implement the draft electoral law and other products of the work of the commission set up to organize elections;

(c) Bring national laws and regulations into line with international human rights standards, ensure that law-making is transparent and consultative, and that all legislation is published and made accessible to the general public in the official languages of Eritrea.

(d) Adopt legislation providing enhanced legal and social protection to those in vulnerable situations, particularly children;

(e) Undertake without delay legal and institutional reforms aimed at ensuring checks and balances among government organs, including by restoring the respect of the rule of law, by institutionalizing an independent and transparent judiciary and by providing access to justice, in particular for the accused and detainees;

(f) Ensure that court processes, including judgements, are transparent, open and accessible to the public, and transmitted to accused persons immediately;

(g) End the application of vicarious liability of innocent parties for alleged unlawful acts committed by third persons;

(h) Establish an independent national human rights institution with a monitoring mandate to investigate ongoing human rights violations; and protect and respect the substantive role that civil society actors, particularly human rights defenders, play in democratic societies.

(i) Ensure that individuals have the possibility of appealing settlements that are not based on law, and close the Special Court.

3. Enforced disappearances and arbitrary arrest and detention

87. **The commission further recommends that the Government of Eritrea:**

(a) Cease with immediate effect the practice of enforced disappearance and all forms of extrajudicial executions by, inter alia, discontinuing the shoot-to-kill policy wherever it may be applicable in border areas;

(b) Immediately and unconditionally release all unlawfully and arbitrarily detained persons, including members of the G-15, journalists and members of religious groups;

(c) Set up an effective mechanism to establish the whereabouts of those who have disappeared, provide it with a full account of all those arrested or disappeared since independence, and immediately provide information thereon to their families;

(d) Review all cases of detainees who have been convicted of an offence in a judicial or quasi-judicial forum but who were not given the opportunity to defend themselves or accorded the procedural rights that are established in the international instruments to which Eritrea is party;

(e) Put an immediate end to the practice of incommunicado detention and close all unofficial and secret places of detention; allow access to prisoners by family

members, lawyers and judges; and institute and ensure the respect of procedures whereby any person who is arrested is either charged or released after a reasonable period of time;

(f) Provide immediately information on any prisoners of war held in detention, and release them as soon as possible; in the meantime, allow international monitors unrestricted access to them.

4. Conditions of detention

88. **The commission recommends that the Government of Eritrea:**

(a) Improve the conditions of detention and the treatment of prisoners to bring them into line with international standards and, in particular, ensure access to medical treatment for all detainees in need;

(b) Ensure that solitary confinement remains an exceptional measure of limited duration;

(c) Institute procedures for independent oversight of detention centres; and immediately permit unhindered access by international monitors to all places of detention, allow them to conduct regular and unannounced visits, and act promptly on their recommendations;

5. Torture and ill-treatment

89. **The commission recommends that the Government of Eritrea put an immediate end to the use of torture and other forms of ill-treatment, establish adequate complaints mechanisms and ensure that prompt and effective investigations are conducted into all allegations of torture and ill-treatment with a view to bringing perpetrators to justice.**

6. Public freedoms

90. **The commission recommends that the Government of Eritrea:**

(a) Permit immediately freedom of movement within the country by dismantling checkpoints and removing the need for travel permits; take measures to facilitate the lawful movement of persons in and out of the country, including for family reunification; and lift the requirement of an exit visa to leave the country, and treat returnees in compliance with international standards;

(b) Take immediate measures to allow the operation of independent media, including by bringing relevant legislation into conformity with international standards; and protect journalists from arbitrary interference and arrest;

(c) Take immediate measures to end all religious persecution, particularly for specific religious groups, such as Jehovah's Witnesses, Pentecostals and other non-authorized religious groups; and immediately restore citizenship and related rights;

(d) Respect the religious freedom of all faiths.

7. Property

91. **The commission also recommends that the Government of Eritrea:**

(a) Ensure that rights related to property are realized and enjoyed without discrimination of any kind;

(b) Ensure that evictions from property, including land and houses, and resettlements are conducted in accordance with international human rights law, including on compensation, and the principles of proportionality and reasonableness;

(c) End forced evictions used in reprisal against unauthorized religions, such as Jehovah's Witnesses and those who did not take part in the armed struggle;

(d) Stop the seizure without compensation of land of Afars who flee Eritrea; and ensure that Afars are resettled in a hospitable environment.

8. National service

92. **The commission recommends that the Government of Eritrea:**

(a) Discontinue indefinite national service by limiting it to 18 months for all current and future conscripts, as envisaged by the Proclamation on national service;

(b) Provide full and transparent information on the implementation of the recent announcement concerning the return of the duration of national service to 18 months for persons recruited as of 2014;

(c) Provide for conscientious objection by law, in accordance with international norms; and provide for and grant exemptions from national service for reasons relating to physical or mental health issues or family needs;

(d) Establish and apply lawful procedures for the apprehension of draft evaders and deserters, and ensure that they are charged and tried by a court in accordance with international standards;

(e) Adopt a military code that, inter alia, forbids and punishes ill-treatment, exploitation and harassment of conscripts, and that sets standards for their living conditions, including provision of food and shelter;

(f) Establish a complaint mechanism for conscripts to raise allegations of ill-treatment and to obtain redress;

(g) Stop the forced recruitment of children under the age of 18 years into military training;

(h) Disassociate education from military service and provide for the completion of secondary schooling outside of Sawa or other military training centres;

(i) Abolish the requirement of completion of national service duties for citizenship.

9. Forced labour

93. **The commission of inquiry calls upon the Government of Eritrea to cease the practice of using conscripts serving in the national service, detainees, students and members of the militia as a source of forced labour, which is prohibited by international standards.**

10. Gender equality

94. **The commission of inquiry recommends that the Government:**

(a) Strengthen legislation protecting and promoting the equality of women in Eritrea;

(b) Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

(c) Permit the creation of independent gender-specific civil society organizations, which are necessary to increase women's involvement in public life and decision-making;

(d) Ensure that women have access to productive land, agricultural training and the means required to make their farming sustainable and productive;

(e) Ensure that all women and girls enjoy equal inheritance rights and are protected by the same legal standards;

(f) Investigate, prosecute and sentence offenders of sexual and gender-based violence;

(g) During mandatory military training, prohibit the assignment of women and girls to officials' quarters for forced domestic labour, and institute a zero-tolerance policy for sexual abuse within training camps, which should be monitored and reported on by an independent institution;

(h) Take immediate measures to ensure de facto gender equality, and address all forms of violence against women, including domestic violence, sexual and gender-based violence by State and non-State actors, specifically within state institutions, such as military camps, army and places of detention;

(i) Implement impartial, gender-sensitive reporting mechanisms for victims of violence, and provide rehabilitation and support services, including safe houses, legal aid resources and health care.

11. Follow-up

95. **The commission of inquiry also recommends that the Government:**

(a) Seek technical assistance from OHCHR and other agencies, as appropriate, with a view to assist in the implementation of the present recommendations, as well as those made during the universal periodic review and by other human rights mechanisms;

(b) Collaborate with the Special Rapporteur in implementing her mandate and respond positively to her requests for an invitation to visit Eritrea;

(c) Cooperate with other international human rights mechanisms;

(d) Ensure an inclusive and comprehensive follow-up process to the universal periodic review, implement the recommendations made by treaty bodies, and submit overdue reports;

(e) Cooperate with the international community to allow those providing international humanitarian assistance unhindered access throughout the country.

96. **The commission of inquiry recommends that the international community:**

(a) Pending tangible progress in the situation of human rights, in particular the adoption of reforms that seriously address the problems identified in by the commission in the present report, continue to provide protection to all those who have fled and continue to flee Eritrea owing to severe violations of their rights or fear thereof;

(b) Respect the principle of non-refoulement and end bilateral and other arrangements that jeopardize the lives of those who seek asylum;

(c) Identify long-term solutions to help Eritrean refugees, including local integration in the first-asylum country and resettlement in third countries, and strengthen international solidarity in sharing the responsibility to care for Eritrean refugees and migrants;

(d) Promote channels of regular migration from Eritrea to reduce clandestine channels, in particular by ensuring that they no longer have to risk their

lives crossing the Mediterranean; in this regard, the issue of securing refugee routes should be considered at the international level to provide safe passage to fleeing persons;

(e) Promote inter-State cooperation to counter human smuggling and trafficking, while treating victims in accordance with international human rights standards;

(f) Criminalize the trade in people trafficking and people smuggling, which in this region predominantly affects Eritreans; and establish mechanisms to investigate, and provide resources to prosecute, those engaged in this trade;

(g) In engaging with the Eritrean authorities on solutions to stem the flow of asylum seekers from Eritrea, place human rights considerations at the forefront of any package of proposed abatement measures; furthermore, neighbouring Governments should train security sector personnel in gender-sensitive trafficking awareness;

(h) Keep Eritrea under close scrutiny until tangible progress in the situation of human rights is evident, and ensure the centrality of human rights in all engagement with the country;

(i) Clear conditions for a return to full, normal relations between Eritrea and the international community, including the participation of Eritrea in regional councils and mechanisms;

(j) Assist Eritrea and Ethiopia in solving border issues through diplomatic means.

97. **When negotiating development assistance and investment projects in Eritrea, Governments, non-governmental organizations and private sector companies should ensure that decent wages for locally engaged staff are an integral part of the agreement, and insist that wages effectively go to those doing the work. In negotiating access to the country and in proposing programmes and projects, organizations should ensure that a positive impact on the enjoyment of rights and freedoms of the people of Eritrea as recognized under international law is a central priority.**

98. **The commission of inquiry recommends that the United Nations, review and revise where necessary the Human Rights Up Front initiative for Eritrea in the light of the findings of the commission and ensure that all United Nations entities apply it consistently.**

99. **The commission of inquiry calls upon the International Labour Organization to address the issue of forced labour in Eritrea.**

100. **In deciding among its future projects, the United Nations Development Programme should prioritize support for the strengthening of the national statistics office of Eritrea.**

101. **OHCHR should report annually to the Human Rights Council and other appropriate United Nations organs on its efforts to assist the Government of Eritrea in the implementation of the recommendations made in the present report, as well as those made during the universal periodic review and by other human rights mechanisms.**

102. **The commission of inquiry recommends that the Human Rights Council:**

(a) Organize, at its thirtieth session, a high-level panel discussion on strategies to investigate the issue of human trafficking in North Africa and the

Mediterranean, with the involvement of all relevant actors and using both security and human rights frameworks;

(b) Renew the mandate of the Special Rapporteur on the situation of human rights in Eritrea, and request the mandate holder to, inter alia, work to promote and report on the implementation of the present recommendations, providing the additional resources necessary to do so;

(c) Mandate a relevant special procedure or otherwise direct an investigation of the extent to which the abuses identified by the commission constitute crimes against humanity;

(d) Request OHCHR to increase attention and resources to the situation of human rights in Eritrea by enhancing engagement with the Government with the aim of implementing the present recommendations, as well as those made during the universal periodic review and by other human rights mechanisms.

Annexes

[English only]

Annex I

Letter addressed to the President of Eritrea by the commission of inquiry

United Nations

COMMISSION OF INQUIRY ON HUMAN RIGHTS IN ERITREA

3 June 2015

Excellency,

Further to my letter of 14 October 2014, I am writing to you again in my capacity as Chair of the Commission of Inquiry on Human Rights in Eritrea.

In June 2014, the Human Rights Council established the Commission with the mandate to investigate all alleged violations of human rights in Eritrea and to report to it at its twenty-ninth session, starting in Geneva on 15 June.

The Commission undertook its investigation between the months of November 2014 and May 2015. I sincerely regret that in spite of repeated calls for access and for information related to the human rights situation, your Government decided not to engage with us and not to provide any cooperation. We are still ready to engage with you and your Government, should you wish to invite us to visit Eritrea and discuss the outcome of our investigation with you and your collaborators.

On the basis of the body of evidence collected from more than 700 testimonies, the Commission has concluded that systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of your Government. The enjoyment of rights and freedoms are severely curtailed in an overall context of a lack of rule of law.

The Commission also finds that the violations in the areas of extrajudicial executions, torture (including sexual torture), national service and forced labour may constitute crimes against humanity. The commission emphasizes that its present findings should not be interpreted as a conclusion that international crimes have not occurred in other areas.

The full report on the findings and conclusions of the recommendations, together with a shorter version of it are shared as annexes to this letter. They will be made public on 08 June 2015; and presented and discussed on 23 June, in the course of the Council's twenty-ninth session.

In light of the findings of the Commission and as President of Eritrea, President of the National Assembly and leader of the ruling party, the People's Front for Democracy and Justice, I exhort you to take immediate action to address the grave human rights situation in your country, in particular by ending impunity for officials guilty of gross human rights violations.

The Commission urges you and your Government to:

Implement fully and without further delay the 1997 Constitution. Any amendments to the Constitution should take place in a transparent and participatory manner and take into account Eritrea's obligations under international human rights law.

Acknowledge the existence of human rights violations and ensure accountability for past human rights violations, including but not limited to extrajudicial killings, enforced disappearances, torture, unlawful detention, sexual violence and forced labour, also within national service.

Cease with immediate effect the practice of enforced disappearance and all forms of extrajudicial executions, inter alia by discontinuing the shoot-to-kill policy that may be applicable at any border.

Immediately and unconditionally release all unlawfully and arbitrarily detained persons, including members of the G-15, journalists and members of religious groups.

Put an immediate end to the use of torture and other forms of ill-treatment.

Discontinue the indefinite national service by limiting it to 18 months for all current and future conscripts as envisaged by the National Service Proclamation.

Take immediate measures to ensure de facto gender equality and address all forms of violence against women, including domestic violence, sexual and gender-based violence by State and non-State actors.

The Commission's full recommendations are detailed in the reports attached to this letter. We hold the hope that you will give them serious consideration. We strongly believe that, if implemented, they would be of help to make Eritrea a State where rule of law is implemented and human rights respected.

The Commission avails itself of the opportunity to renew the expression of its highest consideration.

Please accept, Excellency, the assurances of my highest consideration.

Mike Smith
Chair
Commission of Inquiry on Human Rights in Eritrea

His Excellency
Mr. Isaias Afwerki
President of the State of Eritrea
Asmara

Annex II

List of detention facilities identified by the commission of inquiry

Detention facilities in Eritrea documented by the commission of inquiry

1. First Police Station
2. Second Police Station
3. Third Police Station
4. Fourth Police Station
5. Fifth Police Station
6. Sixth Police Station
7. Abi Adi
8. Aderser
9. Adi Abeito
10. Adi Imer
11. Adi Keih
12. Adi Nefas
13. Adi Quala
14. Afabet
15. Agip
16. Agordat
17. Ala
18. Arag
19. Assab
20. Baharia
21. Barentu Military Intelligence Unit
22. Barentu Military Unit
23. Barentu Police Station
24. Barentu Prima Country
25. Barentu Secret Prison House
26. Dahlak Kebir
27. Darsal
28. Debarwa
29. Dekemhare
30. Dengolo
31. Dugona
32. Eiraeiro
33. Gahteley
34. Gedem
35. Gelalo
36. Gergera
37. Haddis Ma'askar
38. Hagaz
39. Halhal
40. Hashferay
41. Idaga Arbi
42. Karshele
43. Keren
44. Mai Duma

45. Mai Edaga
46. Mai Nefhi
47. Mai Serwa
48. Mai Temenay
49. Massawa
50. Me'eter
51. Mendefera
52. Nakfa
53. Nakura
54. Sawa
55. Segeneti
56. Sembel
57. Senafe
58. Serejeka
59. Sheila Tessenei
60. Tehadasso
61. Tessenei
62. Track B
63. Track C
64. Tsetser
65. Tsorona
66. Under Tessenei
67. Wi'a
68. Zara

Additional detention facilities reported in the course of the investigation

1. Aba Shawal Police Station
2. Aboy Regum
3. Ali Giddeh
4. Asha Golgol
5. Auna Wato
6. Baleko
7. Dahrotay
8. Duarwa
9. Edaga Arbi
10. Fila Ber'ed
11. Embatkala
12. Garage Fenkel
13. Ginda Police Station
14. Glas
15. Golij
16. Go'igne
17. Jufa
18. Keru
19. Kiloma
20. Klima
21. Kudo-Felasi
22. Metkelabet
23. Shilalo

24. Laba Stifanos
25. Isererat
26. Villagio Prison House
27. Leio